

Message Text

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ACTION ARA-14

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E.O. 11652: N/A
TAGS: EINV, PN
SUBJ: BOSTON-PANAMA EXPROPRIATION CASE

REF: PANAMA 5852

1. EMBASSY OFFICERS MET AUG 17 WITH LAWYER MOLINO, WHO IS RESEARCHING TECHNICAL LEGAL ASPECTS OF THE CASE FOR THE U.S. GOVERNMENT. HE CLARIFIED MANY POINTS OF HIS PREVIOUS RATHER CRYPTIC INTERIM REPORT (REFTEL), AND ALSO REVEALED THAT HE HAS AN INTERVIEW SCHEDULED FOR AUG 21 WITH THE ACTING MINISTER OF THE TREASURY. MOLINO IS HOPEFUL THAT THE MINISTER WILL ASSIST HIM IN LOCATING VARIOUS KEY DOCUMENTS IN THE CASE; MOLINO'S CONTACTS WITH HUMBLER FUNCTIONARIES HAVE NOT BEEN FRUITFUL.

2. REGARDING THE EARLIEST PERIOD OF THE CASE, MOLINO APPEARS TO ATTACH IMPORTANCE TO LOCATING A COPY OF THE FIRST COMPLAINT, FILED IN 1937 AGAINST B-P BY A PRIVATE CITIZEN AND LAWYER NAMED BENEDETTI. AS A RESULT OF HIS COMPLAINT, THE COMPANY WAS ORDERED TO PAY \$22,000 IN BACK TAXES. THIS COMPLAINT WAS ALLEGEDLY SETTLED IN 1941 WITH A COMPLETE VICTORY FOR THE COMPANY, ALTHOUGH MOLINO STATED THAT HE HAD FOUND NO PROOF OF SUCH A SETTLEMENT IN THE
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DOCUMENTS REVIEWED THUS FAR.

3. LAWYER BENEDETTI TRIED AGAIN IN 1949, AND AFTER A LONG SERIES OF LEGAL MANEUVERS AN APPARENTLY FINAL DECISION WAS MADE IN 1963. THIS FINAL DECISION, AS DESCRIBED BY MOLINO, WAS MADE BY THE PRESIDENT OF PANAMA USING HIS EXECUTIVE POWERS, AND HAD THE EFFECT OF REDUCING THE LIEN FROM NEARLY \$3 MILLION TO ONLY \$220,000.

4. SINCE THE DECISION HAD BEEN A PRESIDENTIAL ONE ANY FURTHER APPEALS, ACCORDING TO MOLINO, SHOULD HAVE BEEN ADDRESSED TO THE SAME LEVEL. FURTHERMORE, EXISTING LAW PROVIDED THAT ANY APPEAL LAUNCHED AFTER WHAT WAS INTENDED TO BE THE "FINAL" SETTLEMENT COULD BE MADE ONLY AFTER PAYMENT OF THE DISPUTED TAX. IN PURSUING ITS SUBSEQUENT APPEALS, B-P FAILED TO PAY THE TAX AND ALSO DIRECTED ITS PETITIONS TO THE WRONG OFFICES. HE EXPRESSED PUZZLEMENT THAT THE APPROPRIATE GOP OFFICIALS APPARENTLY DID NOT INFORM THE COMPANY OF THIS LATTER ERROR.

5. ALSO ACCORDING TO MOLINO, THE PAPERS PROVIDED BY B-P ATTORNEYS AND FORWARDED THROUGH DEPARTMENT INCLUDE VIRTUALLY NO DOCUMENTATION FROM THE CRUCIAL 1963-1969 PERIOD LEADING UP TO THE FORCED TAX SALE OF THE PROPERTY. NUMEROUS REFERENCES ARE MADE IN THE LONG SUMMARY OF THE CASE PREPARED BY B-P ATTORNEYS TO THE COMPANY'S EFFORTS TO APPEAL AGAINST THE TAX JUDGMENT DURING THIS PERIOD AND PREVENT LOSS OF THE PROPERTY, BUT THE LEGAL DOCUMENTS THEMSELVES ARE NOT INCLUDED IN THE PAPERS MOLINO RECEIVED. HE HAS ATTEMPTED TO OBTAIN SOME OF THESE DOCUMENTS FROM PANAMANIAN RECORDS, AND WILL CONTINUE TO DO SO, NOTABLY AT HIS MEETING NEXT WEEK WITH THE TREASURY MINISTER. MOLINO HAS ALREADY REQUESTED (REFTEL) ANY FURTHER DOCUMENTATION THAT B-P CAN PRODUCE.

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6. MOLINO SHOWS AN IMPRESSIVE GRASP OF THE COMPLEXITIES OF THE PANAMANIAN CIVIL LAW, WHICH IS EVIDENTLY A PIT FOR THE UNWARY. WE EMPHASIZE THAT TODAY'S CABLE IS BASED ON MOLINO'S VERBAL REMARKS TO EMBOFFS WHO ARE NOT LAWYERS, AND SHOULD ACCORDINGLY BE USED WITH CAUTION INSOFAR AS LEGAL TECHNICALITIES ARE CONCERNED. WE WILL CONTINUE TO KEEP DEPARTMENT FULLY INFORMED OF THE PROGRESS OF MOLINO'S INVESTIGATION, AND OTHER ASPECTS OF THE CASE AS THEY DEVELOP. JORDEN

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